

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

PHILLIP DOUGLAS JACOBS

Case No. C-3:11-cv-029

Petitioner,

Judge Thomas M. Rose

-v-

Magistrate Judge Sharon L. Ovington

**WARDEN, Marion Correctional
Institution**

Respondent.

**ENTRY AND ORDER OVERRULING JACOBS' OBJECTIONS (Doc. #3)
TO THE MAGISTRATE JUDGE'S REPORT AND
RECOMMENDATIONS; ADOPTING THE MAGISTRATE JUDGE'S
REPORT AND RECOMMENDATIONS (Doc. #2) IN ITS ENTIRETY;
DISMISSING JACOBS' PETITION FOR A WRIT OF HABEAS CORPUS
WITH PREJUDICE; DENYING ANY REQUESTED CERTIFICATE OF
APPEALABILITY; AND TERMINATING THIS CASE**

This matter comes before the Court pursuant to pro se Petitioner Phillip Douglas Jacobs' ("Jacobs'") Objections (doc. #3) to Magistrate Judge Sharon L. Ovington's Report and Recommendations (doc. #2). Upon review, as required by Rule 4 of the Rules Governing § 2254 cases, the Magistrate Judge recommends that Jacobs' Petition for a Writ of Habeas Corpus be dismissed with prejudice because it is a second or successive petition filed without approval by the Sixth Circuit.

As required by 28 U.S.C. §636(b) and Federal Rules of Civil Procedure Rule 72(b), the District Judge has made a de novo review of the record in this case. Upon said review, the Court finds that Jacobs' Objections to the Magistrate Judge's Report and Recommendations are not well-taken, and they are hereby OVERRULED. The Magistrate Judge's Report and Recommendations is adopted in its entirety.

Jacobs' Petition for a Writ of Habeas Corpus was given preliminary consideration as required by Rule 4 of the Rules Governing § 2254 Cases. Pursuant to this consideration, Jacobs' Petition is a second or successive petition that is filed without approval of the Sixth Circuit¹ and must, therefore, be dismissed. Further, because reasonable jurists would not disagree with this conclusion, any appeal would be objectively frivolous. Thus, Jacobs is denied any requested certificate of appealability. Finally, The captioned cause is hereby ordered terminated upon the docket records of the United States District Court for the Southern District of Ohio, Western Division, at Dayton.

DONE and ORDERED in Dayton, Ohio, this Seventh Day of March, 2011.

s/Thomas M. Rose

THOMAS M. ROSE
UNITED STATES DISTRICT JUDGE

Copies furnished to:

Counsel of Record
Phillip Douglas Jacobs at his last address of record

¹The Sixth Circuit has already, most recently, twice denied Jacobs' motion for an order authorizing the district court to consider a second or successive habeas petition.